

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

SUMMIT CONCEPTS, LLC
4127 Bunting Trail
Stow, Ohio 44224

PLAINTIFF

V.

LOWE'S COMPANIES, INC.
1000 Lowe's Boulevard
Mooresville, North Carolina 28117-8520

DEFENDANT

CASE NO.: _____

JUDGE _____

COMPLAINT FOR PATENT INFRINGEMENT

For its Complaint herein, Plaintiff, Summit Concepts, LLC (“Summit”) avers as follows:

1. This is an action in law and equity for patent infringement and related claims arising out of the infringement by Defendant, Lowe's Companies, Inc. ("Lowe's"), of U.S. Patent No. 7,168,340 entitled "Ratchet Wrench Having Constant Drive" ("the '340 patent") in violation of the Patent Laws of the United States as set forth in 35 U.S.C. § 271 and § 281 to § 285. A true and correct copy of the '340 patent is attached hereto as Exhibit 1 and incorporated herein by reference.

2. Summit is a limited liability company organized and existing under the laws of the State of Ohio and having its principal place of business at 4127 Bunting Trail, Stow, Ohio, 44224.

3. Upon information and belief, Lowe's is a corporation organized and existing under the laws of the State of North Carolina and having its principal place of business at 1000

Lowe's Boulevard, Mooresville, North Carolina 28117-8520. Lowe's is a home improvement retailer operating approximately 1,800 home improvement stores across 50 states in the United States, including stores in this district.

4. Upon information and belief, the registered agent for service of process for Lowe's is Corporation Service Company-Raleigh having the mailing address 327 Hillsborough Street, Raleigh, North Carolina 27603-1725.

5. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331 and § 1338(a).

6. Venue is proper in this district pursuant to 28 U.S.C. § 1391(c) and § 1400(b).

7. This Court has personal jurisdiction over Lowe's by virtue of the fact that it regularly solicits business in the state; and it has advertised, offered for sale and has sold a product that literally infringes one or more claims of the '340 patent in this judicial district and elsewhere.

8. By way of assignment from the inventor, Thomas S. Green, Summit is the owner of all right, title and interest in and to the '340 patent which was duly and legally issued by the United States Patent Office on January 30, 2007, and at all relevant times in the past has been and remains in full force and effect.

9. The '340 patent discloses and claims a novel ratchet wrench having constant drive.

10. Upon information and belief, Lowe's sells ratchet tools under the mark "Kobalt" having a bi-directional drive such that when a direction of drive is selected, the ratchet tool applies force in the selected direction when the tool reciprocates between forward and return

directions (“the Accused Products”). The Kobalt 6X-Speed Screwdriver sold by Lowe’s under Kobalt Part No. 0607881 (“the Kobalt 6X”) (Exhibit 2) is representative of the Accused Products.

11. Upon information and belief, the Accused Products literally infringe at least claims 1-5 of the ‘340 Patent.

12. As seen in Exhibit 3, the Kobalt 6X has all the elements of claim 1: a handle with a gripping end and an opposite operational end; the operational end has a shaft having a drive head at an end thereof; there is a first ring gear in operative engagement with the shaft that drives the shaft in a first rotational direction in response to rotational movement of the handle about the shaft in a second rotational direction; a second ring gear, planetary gear and sun gear in operative engagement with each other and with the shaft, driving the shaft in the first rotational direction in response to movement of the handle about the shaft in a rotational direction opposite that of the second rotational direction.

13. As seen in Exhibit 4, in addition to the elements of claim 1, the Kobalt 6X has all the elements of claim 2: a planetary gear interposed between the second ring gear and the sun gear.

14. As seen in Exhibit 5, in addition to the elements of claims 1 and 2, the Kobalt 6X has all of the elements of claim 3: a pawl assembly in selective operative engagement with the shaft.

15. As seen in Exhibit 6, in addition to the elements of claims 1, 2 and 3, the Kobalt 6X has all of the elements of claim 4: the planetary gear is maintained within a planetary gear housing that is restrictively rotatable about said shaft.

16. As seen in Exhibit 6, in addition to the elements of claims 1, 2, 3 and 4, the Kobalt 6X has all of the elements of claim 5: the planetary gear housing is connected to a hand

knob configured to be engaged by a user to selectively restrict rotation of the planetary gear housing about the shaft.

17. Lowe's has infringed and is infringing claims 1-5 of the '340 patent by offering to sell and selling the Accused Products within this judicial district and elsewhere.

18. As a result of Lowe's infringement, Summit has suffered and will continue to suffer damages, including diversion of customers, lost sales and lost profits.

19. Lowe's will continue to offer and to sell the Accused Products unless and until enjoined by this Court.

20. Summit is without an adequate remedy at law.

21. Lowe's infringing conduct has been willful, with constructive knowledge of the '340 patent, and upon information and belief with actual knowledge of the '340 patent.

PRAYER FOR RELIEF

WHEREFORE, Summit prays that this Court enter judgment to:

A. Enjoin Lowe's, its subsidiaries, directors, officers and employees, and all others acting in concert with it, from offering for sale and selling ratchet tools encompassed by the '340 patent;

B. Order Lowe's to account for its sales and profits from such infringement to Summit;

C. Award Summit damages for infringement, together with pre-judgment and post-judgment interest;

D. Adjudge Lowe's to be a willful infringer and treble the aforesaid damages pursuant to 35 U.S.C. § 284;

- E. Adjudge this case to be exceptional and award Summit its reasonable attorneys' fees pursuant to 35 U.S.C. § 285;
- F. Assess costs and interest against Lowe's; and
- G. Grant Summit such other and further relief as is just.

JURY DEMAND

Summit requests a jury as to all matters so triable.

Dated: October 11, 2016

Respectfully submitted,

s:/Ray L. Weber

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